

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 2:23-cv-14379-KMM

AFFORDABLE AERIAL PHOTOGRAPHY INC.
a Florida corporation,

Plaintiff,

v.

SYNC RFID INC,
a Florida corporation,

Defendant.

RESPONSE TO PLAINTIFFS' NOTICE OF FILING [ECF 27]

Defendant, Sync RFID Inc., (“Sync RFID”) responds to plaintiff Affordable Aerial Photography Inc.’s Notice of Filing [ECF 27]. Sync RFID awaits this Court’s independent judgment on Sync RFID’s motion for judgment on the pleadings, [ECF 15], which is now ripe for disposition. It will be conferring with AAP on the stay issue shortly and it anticipates a joint status report will be filed.

Regardless, Sync RFID agrees that Affordable Aerial Photography Inc. v. Property Matters USA LLC, [ECF 27-1] is inapt. The panel disposed of the appeal on grounds different than the statute of limitations.

However, Judge Byron’s decision in Sci. Photo Library Ltd. v. Bell Performance, Inc., [ECF 27-2] did address the issue. Sync RFID notes that the order (1) did not cite any Supreme Court decisions concerning its view of the meaning of “accrue” for purposes of statutes of limitations; (2) did not analyze the text of 17 U.S.C. § 507(b) or the purpose of statutes of limitation in general; and (3) did not recognize that at least one judge of this District (Gales, J.) has found an

injury accrual rule applies. [ECF 27-2]. The decision appears to conflate post-accrual equitable tolling with claim accrual itself.

Sync RFID understands that the defendant there, Bell Performance, may seek rehearing as well as certification to take an immediate appeal under 28 U.S.C. §1292(b).

/s/ Griffin Klema
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